



INCOME/ESTATE TAX DIVISION

RULE NO. 901 (08-125 CMR 901)

MAINE RESIDENTS PROPERTY TAX PROGRAM

SUMMARY: This rule provides additional guidance beyond the contents of the law regarding eligibility for a tax or rent refund under the Maine Residents Property Tax Program.

.01 CLAIMANT (36 M.R.S.A., 6201, sub- 2)

A. Unmarried individuals sharing a homestead: If a homestead is occupied by two or more unmarried individuals, none of whom is a dependent of another, and all of whom meet the qualifications of a claimant, each may file a separate application as if living alone. Each must list his or her income and claim his or her share of the total tax assessed or rent paid. If, instead, they agree that only one claimant will file an application claiming the total tax assessed or total rent paid, the application must list the total income of all persons living in the home.

B. Change in marital status: In general, the applicant must reflect the same marital status on the application as the marital status claimed on his or her income tax return. When there is a change in marital status during the year upon which the claim is based, the marital status on the last day of the year determines the status for the entire year. If the claimant is married on the last day of the claim year and files a married joint income tax return, one application must be filed. If the spouses are living apart and married separate income tax returns are filed, separate applications must be filed. Note the following examples (all names are fictitious):

1. Matthew and Heidi Brown, husband and wife, separated in July. They owned a home jointly (joint tenancy) which they occupied together until their separation. When they separated, Matthew moved to a rented apartment and Heidi continued to live in the home. They divorced in December and Heidi became sole owner of the home. Each filed income tax returns as single individuals. On her application, Heidi lists her income for the year and claims her proportionate share of the property tax assessed on the home. Matthew files his application listing his income for the year and claiming his proportionate share of the property tax assessed on the home and all of the rent he paid for the apartment he occupied during the last half of the year. Heidi's proportionate share of the property tax is 50 percent. She cannot claim the total property tax because Matthew continued to own his share of the home until December. Matthew's proportionate share of the property tax is 25 percent representing his half of the tax for January through June. Matthew cannot claim his half of the property tax for July through December because he was not occupying the house in those months.

2. James White and Sherry Jones marry in June. Before their marriage, each occupied his or her own rented apartment. Both lived in Maine. In June, they purchased a home located in Maine which they occupied for the rest of the year. They must file one application listing both of their incomes for the entire year, the six-month prorated tax amount for their home, and the sum of the rent paid for the apartments that they occupied prior to their marriage.

C. One spouse a resident, the other a nonresident: If the homestead is jointly owned by the spouses, the spouse who is the Maine resident is the claimant. The claimant must list the income of both spouses on the application and would claim the total tax assessed or rent paid.

D. Dependent: A person who is a dependent of another person and is claimed (or could be claimed) as a dependent on that person's income tax return, does not qualify to file an application if he or she occupies another homestead. A person who is a member of another person's household cannot also be a separate household. Note the following examples (all names are fictitious):

1. William White is a college student who is claimed as a dependent on his parents' income tax return. He lives in a rented apartment in Portland where he attends college. William does not qualify as a claimant because he is a member of his parents' household.

2. Mary Beaulieu is an independent student who is self supporting. She cannot be claimed as a dependent on her parents' tax return. Mary lives in a rented apartment in Orono where she attends college. She qualifies as a claimant if she occupies the apartment for the entire calendar year and is otherwise eligible.

E. Spouse confined to a nursing home: If a husband and wife own a homestead jointly and one spouse is a patient in a nursing home, the spouse who is living in their homestead is the claimant. The claimant must list the income of both spouses on the application and would claim the entire tax or rent paid.

F. Title to Homestead reads "heirs of ..." or "... et al": Such titles as "heirs of ..." or "... et al" are not clear with relation to a particular applicant. A claimant who occupies a homestead that has this type of title must establish his or her ownership by including documentary evidence with the application. A copy of a will listing all the heirs to the property is one example of such documentary evidence.

G. Claimant who has possessory interest and is personally responsible for the tax. An applicant who does not have title to the homestead that he or she occupies but who does have a possessory interest and who is personally responsible for the tax may file a claim based on the property tax. The claimant must provide a copy of the written agreement that established his or her personal responsibility for the property tax as documentary evidence supporting the claim. The written agreement must have been in effect prior to the beginning of the year upon which the claim is based.

.02 OCCUPYING A HOMESTEAD (36 M.R.S.A., 6201, sub- 5)

A. Absence from the home: A claimant must have occupied his or her homestead during the entire claim year in order to be eligible for a refund. A temporary absence from the home due to illness, hospitalization, vacation, etc. will not disqualify the claimant if the home was available to be occupied by the claimant during the absence. If the applicant rented the homestead to another person during his or her absence, the homestead was not available to the claimant during that period and the occupancy test is not met.

B. Room and Board: A homestead is defined as living quarters that the applicant maintains independently as opposed to room and board situations where rent, food, care, laundry, etc. are not distinguishable from room rent. An individual who lives in a nursing home, boarding home, boards in another person's private home, etc. does not occupy a homestead because he or she is not living independently.

C. Seasonal Dwelling Occupied as a Home: Generally, a claimant who has more than one home simultaneously throughout the year would base a claim on the primary home. An exception develops if the claimant has no primary home. For example, an applicant owns a seasonal dwelling which he or she occupies as a home for part of the year. During the remainder of the year, he or she rents and occupies an apartment. Both are in Maine. Since neither is the primary home, the claim must be based on a prorated share of the tax on the seasonal home and the rent paid for the apartment. The prorated tax amount is based on the time the claimant occupies the seasonal home.

D. Congregate Housing: A typical congregate housing facility includes an apartment equipped in such a way that the person or persons occupying that apartment can live independently. However, the rent usually includes such things as heat, utilities, housekeeping services, transportation, and use of common areas. In addition, meals are available in a central dining room for an additional charge. An applicant living in such congregate housing qualifies as a claimant (if otherwise eligible) based on the amount of rent paid for the right to occupy the apartment. The remainder of the monthly fee that covers heat, utilities, services, meals, etc. cannot be included in the amount of rent claimed on the application.

.03 HOUSEHOLD (36 M.R.S.A., 6201, sub- 6)

Married Persons Living Apart: Generally, the definition of household depends upon income tax law. If a married couple is living apart in separate households on the last day of the claim year and each files a separate income tax return, each may file an application listing his or her own income and claiming the tax or rent on his or her separate household. However, if they file one income tax return as married filing jointly, only one application can be filed. On this one application, they must list their combined income and can claim the tax or rent on only one of the homesteads as if they were living together.

.04 PROPERTY TAXES ACCRUED (36 M.R.S.A., 6201, sub- 10)

A. Property taxes accrued when there is a period of other than twelve months involved:

"Property taxes accrued" means property taxes exclusive of special assessment, delinquent interest, and charges for service levied on a claimant's homestead in this State as of April 1 of the claim year. When a municipality changes the dates of its fiscal year (for example, from January 1-December 31 to July 1-June 30) and assesses an eighteen-month tax amount, the property taxes accrued will be the eighteen-month amount based on the April 1 assessment for that claim year. This will be true even if the municipality issues two separate tax bills spaced several months apart.

B. Veteran's Exemption: If the applicant has an exemption for part of the valuation of the property and the homestead is part of a larger unit, the amount of the exemption must be subtracted from the valuation of the house and house lot. Note the following example (the name is fictitious):

Henry Norton is a World War II veteran who owns a farm and has a veteran's exemption of \$5,000. The assessed value of his entire farm is \$300,000. The assessed value of his house and house lot is \$75,000. The property tax claimed for the homestead (house and house lot) is based on a valuation of \$70,000 (\$75,000 minus \$5,000). He would compute the tax amount by multiplying the valuation of \$70,000 by the tax rate.

C. How much land can be included in the benefit base? The homestead is the dwelling and a part of the land, up to 10 acres, upon which the dwelling is built. The house lot can be up to 10 acres if it is one parcel of land. If the claimant owns an adjacent house lot that is separately assessed, only the lot on which the house is built can be included in the claim. If a road passes between the house lot and the remaining land or, if there is an unowned parcel between two parcels that the applicant owns, only the land upon which the dwelling is built can be included.

D. Multiple owners, one of whom is claimant. Generally, a claimant who occupies a homestead that is owned by several persons, one of whom is that claimant, must base the claim on his or her prorata share of the property tax assessed on the homestead. For example, if a homestead is owned by three persons and one of those persons occupies it, that person is the claimant and can claim one-third of the total tax. The others cannot file a claim because they live elsewhere. If, however, the claimant is solely responsible for the payment of the tax under the terms of a written agreement that allows him or her to occupy the homestead, he or she can base the claim on the total tax. The agreement must predate the beginning of the year upon which the claim is based. The claimant must provide a copy of the agreement as documentary evidence to support the claim.

.05 INCOME (36 M.R.S.A., 6201, sub- 9)

A. Inheritance from deceased spouse: Generally, the value of any inheritance received is included in income listed on an application. However, the inheritance by a surviving spouse of a deceased spouse's portion of jointly-owned assets is not considered income and should not be included in the income listed on the application.

B. Proceeds from a life insurance policy: Income does not include the first \$5,000 in proceeds of a life insurance policy, whether paid in a lump sum or in the form of an annuity. An applicant who receives a lump sum benefit should subtract \$5,000 from the amount received and report the remainder as income. For example, an applicant who receives \$25,000 in life insurance benefits would include \$20,000 in income on the application (\$25,000 minus \$5,000). If the benefits are being paid in an annuity, the benefits received must be included in income once the first \$5,000 is exceeded. For example, an applicant who receives \$3,000 a year for 20 years would exclude the \$3,000 received in the first year and \$2,000 received in the second year. The remaining \$1,000 received in the second year and all benefits received in the succeeding years must be included in income.

.06 RENT CONSTITUTING PROPERTY TAXES ACCRUED (36 M.R.S.A., 6201, sub- and 11A):

Rent Paid by Municipal General Assistance: Rent is defined as the gross rent actually paid in cash or its equivalent in any tax year by a claimant and the claimant's household. Rent paid on behalf of a client by municipal general assistance vouchers is considered to be paid by the municipality, not by the claimant or a member of the claimant's household. Therefore, it cannot be included as rent paid on the application.

AUTHORITY: 36 M.R.S.A. Section 112.

EFFECTIVE DATE: January 1, 1997